



# PUBLIC NOTICE

Federal Communications Commission  
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DA 09-1879  
August 25, 2009

**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON PETITION FOR DECLARATORY  
RULING OF AMERICAN ELECTRIC POWER SERVICE CORPORATION ET AL.  
REGARDING THE RATE FOR CABLE SYSTEM POLE ATTACHMENTS USED TO  
PROVIDE VOICE OVER INTERNET PROTOCOL SERVICE**

**WC DOCKET NO. 09-154**

**Comments: September 24, 2009**  
**Reply Comments: October 09, 2009**

On August 17, 2009, American Electric Power Service Corporation, Duke Energy Corporation, Southern Company, and Xcel Energy Services Inc. (American Electric et al.) filed a petition with the Commission seeking a declaratory ruling that the telecommunications rate formula for pole attachments under 47 U.S.C. § 224(e) (Telecom Rate) applies to cable system pole attachments used to provide interconnected voice over Internet Protocol service (VoIP).<sup>1</sup> American Electric et al. state that interconnected VoIP is increasingly used to replace analog voice service, yet cable companies that provide interconnected VoIP claim that the Telecom Rate does not apply to their pole attachments.<sup>2</sup>

According to American Electric et al., cable companies hold themselves out to the public and to state regulators as telephone service providers, so permitting them to pay rates derived from the cable rate formula for pole attachments under 47 U.S.C. § 224(d) (Cable Rate) is discriminatory, and gives cable companies an unfair competitive advantage over other telephone service providers.<sup>3</sup> American Electric et al. also argue that clarifying that the Telecom Rate applies to cable companies that offer interconnected VoIP would help eliminate fruitless billing disputes, and, by establishing regulatory parity, would facilitate broadband penetration.<sup>4</sup> Accordingly, American Electric et al. ask the Commission to declare that the Cable Rate is not the default rate for commingled cable and interconnected VoIP services, and that the Telecom Rate is the just, reasonable, and nondiscriminatory rate for pole attachments by cable companies that hold themselves out as telephone service providers.

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-

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<sup>1</sup> Petition of American Electric Power Service Corporation, Duke Energy Corporation, Southern Company, and Xcel Energy Services Inc. for Declaratory Ruling that the Telecommunications Rate Applies to Cable System Pole Attachments Used to Provide Interconnected Voice over Internet Protocol Service, WC Docket No. 09-154 (filed Aug. 17, 2009) (VoIP Rate Petition).

<sup>2</sup> VoIP Rate Petition at 1-2.

<sup>3</sup> VoIP Rate Petition at 7-11.

<sup>4</sup> VoIP Rate Petition at 12-16.

sentence description of the views and arguments presented generally is required. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

Interested parties may file comments on or before **September 24, 2009** and reply comments on or before **October 09, 2009**. All pleadings should reference **WC Docket No. 09-154**.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Parties should also send a copy of their filings to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, or by e-mail to [CPDcopies@fcc.gov](mailto:CPDcopies@fcc.gov). Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments.
  - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov) and include the following words in the body of the message: get form <your email address>. A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

For further information regarding this proceeding, contact Jonathan Reel, Competition Policy Division, Wireline Competition Bureau, 202-418-0637.

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